

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Jurisdictional Separations Reform and)	CC Docket No. 80-286
Referral to the Federal-State Joint Board)	
)	
Options for Comprehensive Separations)	
Reform.)	

COMMENTS

The National Exchange Carrier Association, Inc. (NECA), the National Rural Telecom Association (NRTA), the National Telephone Cooperative Association (NTCA), and the Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) (“the Associations”) submit these joint comments in response to the Commission's *Public Notice* in the above-captioned proceeding.¹

The Public Notice requests comment on a “glide path” policy paper, filed December 19, 2001 by the State Members of the Federal-State Joint Board on

¹ Common Carrier Bureau Seeks Comment on “Glide Path” Policy Paper Filed by State Members of the Federal-State Joint Board on Jurisdictional Separations, CC Docket No. 80-286, *Public Notice*, DA 01-2973 (rel. Dec. 20, 2001).

Separations (Joint Board), outlining a number of proposed options for comprehensive reform of the Commission's Part 36 jurisdictional separations rules.²

Separations reform continues to be a long and complicated process. The Commission initiated a separations reform proceeding in October 1997³ with the stated goal of "reviewing comprehensively our Part 36 jurisdictional separations procedures to ensure that they meet the objectives of the 1996 Act, and to consider changes that may need to be made to the jurisdictional separations process in the light of changes in the law, technology, and market structure of the telecommunications industry."⁴ Just last year, the Commission took its first step "towards reforming outdated regulatory mechanisms that are out of step with today's rapidly-evolving telecommunications marketplace" by implementing a 5-year interim separations freeze for allocation and categorization factors.⁵ Now the state members of the Separation Joint Board have introduced a "glide path" paper articulating various jurisdictional alternatives in an attempt to "frame the debate" for ongoing examination and possible redefinition of the jurisdictional division between state and federal authority over telecommunications service.⁶

² Options for Separations: A Paper Prepared by the State Members of the Separations Joint Board, CC Docket No. 80-286, filed December 19, 2001(*Glide Path Policy Paper*).

³ Jurisdictional Separations Reform and Referral to the Federal-State Joint Board, , CC Docket No. 80-286, *Notice of Proposed Rulemaking*, 12 FCC Rcd 22120 (1997) (*Separations Reform NPRM*).

⁴ *Id.* at ¶ 2.

⁵ See Jurisdictional Separations Reform and Referral to the Federal-State Joint Board, CC Docket No. 80-286, *Report and Order*, 66 Fed. Reg. 33202 (2001) at ¶ 1 (*Report and Order*).

⁶ See *Glide Path Policy Paper* at p. 2.

The proposals articulated in the glide path paper raise profound, fundamental issues for telecommunications policymakers. As such, they should be approached with great caution. First and foremost, the Commission should make clear that reforms in the separations process must not harm rural consumers. As many parties pointed out recently in their comments submitted in the Commission's Intercarrier Compensation reform proceeding,⁷ changes in the way that costs are allocated and/or recovered between the jurisdictions can have drastic impacts on local rates and service availability in rural areas.⁸ Separations "reform" proposals that would completely abandon traditional separations methods, or that would otherwise cause disproportionate shares of local telephone network costs to be assigned to intrastate service customers despite heavy use of these facilities by interstate service providers, would severely disadvantage local ratepayers in rural areas. At the outset, the Commission must assure that nothing that takes place in the separations mechanisms will undermine the universal service objectives embodied in section 254 of the 1996 Act.

Other proposals set forth in the "glide path" paper focus on simplifying or streamlining existing cost separations methods. But before these proposals can be considered in any meaningful way, additional definition is required, and time will be needed to assimilate the effects of recent and already-planned changes in rate-of-return

⁷ Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92, *Notice of Proposed Rulemaking*, 16 FCC Rcd 9610 (2001)(ICC NPRM).

⁸ Commenters argued that the Commission's bill and keep (B&K) proposals would effectively change the dividing line between costs recovered through traditional interstate services and those recovered as part of the local bill (*See* NARUC at 4, August 21, 2001) and result in tremendous rate increases for rural customers. (*See* NECA at 5-6, Home Telephone Company at 1, ICORE at 8, Oklahoma Rural Telephone Coalition at 4 and 7, Regulatory Commission of Alaska at 2, Western Alliance at 9, August 21, 2001.).

(ROR) carrier rules and regulation. Tremendous changes have occurred over the last year. The interim separations freeze just went into effect on July 1, 2001 and will extend for a five year period.⁹ Also on July 1, 2001, interim modifications to ROR universal service funding mechanisms went into effect, also for a five-year period.¹⁰ The Commission's MAG Order,¹¹ released November 8, 2001, initiated major changes to the Commission's access policies for rate of return carriers, including increases to the end user common line (EUCL) rate, the elimination of the carrier common line (CCL) charge, and the introduction of a new Interstate Common Line Support (ICLS) universal service mechanism. These access charge reforms are being phased in over an 18 month period that began on January 1, 2002. The Commission has asked for further comment on additional access charge reforms, including incentive regulation options for ROR carriers. ROR companies will not know the full impact of these reforms for some time to come. Such information would contribute greatly toward an informed and comprehensive analysis of the "glide path" alternatives.

⁹ See *Report and Order* at ¶ 9.

¹⁰ See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Multi Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, CC Docket No. 00-256, *Fourteenth Report and Order, Twenty-Second Order On Reconsideration and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256*, 16 FCC Rcd 11244 (2001) (*RTF Order*).

¹¹ Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, CC Docket No. 00-256, Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate of Return Regulation, CC Docket No. 98-77, Prescribing the Authorized Rate of Return for Interstate Services of Local Exchange Carriers, CC Docket No. 98-166, *Second Report and Order and Further Notice of Proposed Rulemaking in CC Docket No. 00-256*,

The Commission must also take care to avoid creating additional uncertainty in the rural telecommunications marketplace at the current time. Companies are only now attempting to implement the Commission's new access reform rules, and they are seriously concerned about the potential impacts on customers as the new rules are phased in over the next year and a half. These changes come at a time when carriers are under great pressure to meet the challenges of actual or potential competition, while at the same time satisfying increasing customer demand for broadband capability. Many forums and surveys have pointed to the high cost to bring such service to rural Americans. Without some semblance of stability in the regulatory environment, rural telephone companies will not be able to take the financial risks of investing in the facilities required to bring advanced services to rural areas.

Separations reform must not be permitted to undo what has already been accomplished in bringing telephone services to rural areas. Nor should it be permitted to create so much uncertainty that additional investment will be forestalled. The Associations accordingly suggest that the Separations Joint Board begin now to establish a working relationship with the industry to define proposed options more clearly and to collect data that will allow in-depth analysis of realistic reform alternatives.

This process will be complicated and take more time than the comment cycle for the Glide Path Policy Paper will allow. However, the Associations believe that there is ample time available for such collaboration, since the separations freeze is in effect until July 2006. Separations changes that are based on actual data collected under the Commission's new access reform and universal service rules will ultimately be more

Fifteenth Report and Order in CC Docket No. 96-45, and Report and Order in CC Docket Nos. 98-77 and 98-166, 66 Fed. Reg. 59719 (2001) (MAG Order).

conclusive and result in reforms that are better adapted to the evolving telecommunications marketplace. The Associations suggest that a collaborative process begin expeditiously to facilitate this goal.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Comments was served this 22nd day of January 2002, by electronic delivery or by mailing copies thereof by United States Mail, first class postage paid, to the persons listed below.

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